The court said in part: "The animo furandi is an element of robbery as it is of theft, and both in theft and robbery the taking of goods upon a bona fide claim of right may negative any intent to steal. Russell on Law of Crimes (7th Eng. Ed.) vol. 2, p. 1129; Bishop's New Criminal Law, vol. 2, § 1162a. This principle has been applied to the forcible retaking of specific property in this and other jurisdictions. Smedly *v.* State, 30 Tex. 215; Barnes *v.* State, 9 Tex. App. 128; Wolf *v.* State, 14 Tex. App. 210; Higgins *v.* State, 19 S. W. 503; Temple *v.* State, 215 S. W. 965; Glenn *v.* State, 49 Tex. Cr. R. 349, 92 S. W. 806, 13 Ann. Cas. 774; Smith *v.* State, 81 S. W. 712; Boles *v.* State, 58 Ark. 35, 22 S. W. 887; State *v.* Wasson, 126 Iowa, 320, 101 N. W. 1125; Tripplett *v.* Commonwealth, 122 Ky. 35, 91 S. W. 281; People *v.* Hughes, 11 Utah, 100, 39 Pac. 492; State *v.* Dengel, 24 Wash. 49, 63 Pac. 1104; Brown *v.* State, 28 Ark. 126; People *v.* Vice, 21 Cal. 344; Driscoll *v.* People, 47 Mich. 413, 11 N. W. 221; Young *v.* State, 34 Tex. Cr. R. 290, 30 S. W. 238.

"The judicial decisions are practically uniform that the same principle applies to the forcible collection of a debt. In Russell on Crimes, p. 1120, supra, it is said:

"'A creditor who assaults his debtor and compels him to pay his debt cannot be convicted of robbery.'

"In the English case of Reg. *v.* Hemmings, 4 F. & F. 50, the prisoner was indicted for robbery, and it was shown that the check or money forcibly obtained was owing to the prisoner by the prosecutor, and that the prisoner's motive was to collect his debt. He was held not guilty of robbery. Many decisions harmonizing with this view are found. State *v.* Hollyway, 41 Iowa, 200, 20 Am. Rep. 586; State *v.* Brown, 104 Mo. 365, 16 S. W. 406; Ohio *v.* Carmans, Tappan (Ohio) 65; Gables *v.* State, 68 S. W. 288; Crawford *v.* State, 90 Ga. 701, 17 S. E. 628, 35 Am. St. Rep. 242; McDaniel *v.* State, 8 Smedes & M. (Miss.) 401, 47 Am. Dec. 93. There are in the case of Fannin *v.* State, 51 Tex. Cr. R. 45, 100 S. W. 916, 10 L. R. A. (N. S.) 745, 123 Am. St. Rep. 874, expressions varying from the views stated, but they are out of harmony with the weight of authority, both English and American."

Workmen's Compensation Act—Heroic Act Not Arising Out of Employment.—The heroic act of a flagman, which cost him his life while attempting to rescue a child on the tracks of another road, running parallel with the one on which he was employed, was held not to arise out of his employment within the meaning of the Workmen's Compensation Act, by the New York Supreme Court, Appellate Division, Third Department, in Priglise *v.* Fonda, J. & G. R. Co., 183 New York Supplement, 414. The accident occurred when two school children were attempting to cross the railroad tracks. They were brothers, who, not heeding the warnings given, attempted

to cross before an approaching train. The younger boy stumbled and fell on the track, and the elder lad, who had already crossed, went back to rescue his little brother, and did so, but lost his own life in the attempt. The flagman, who had observed the dangerous position of the boys, went to their assistance, and was himself killed by the train. Judge Cochrane, in concluding the opinion said: "The act of Priglise was heroic, and elicits the highest commendation; but we must not permit our admiration for his heroism to blind us to the injustice requiring his employer to pay for his heroism, no matter how meritorious, unless it was displayed in an act which properly can be said to have arisen out of, and in the course of, his employment."

As said in the dissenting opinion it seems that the award of compensation in this case could well have been sustained under the authority of Waters *v.* Taylor Co., 218 N. Y. 248, 112 N. E. 727, L. R. A 1917A, 347. In that case two contractors were working at their respective jobs on the same building, and when the employee of one contractor went to the relief of the employee of another contractor in another part of the building, it was held that he was well within the scope of his employment in doing the humane act. Neither contractor was engaged in a business peculiarly hazardous, and neither man was there for the purpose of protecting any one from harm, but was charged with the duty of doing his ordinary day's work. In the principal case there was practically a double crossing, each railroad having an employee to protect the public while using the same street. The men were placed in a position calling for quick action in an emergency to save life. Any distinction drawn between the Waters Case and the principal case would seem to favor the sustaining of the award.

Workmen's Compensation Act—Injury to Employee while Procuring Bail for Customer.—In Sabatelli *v.* De Robertis et al, 183 N. Y. Supp. 796, the Supreme Court of New York held that where an employee in an ice cream store, whose employment was hazardous, as defined in Workmen's Compensation Act, was directed by his employer, who had an interest in an adjoining saloon, to go to the police station to see if bail offered for a customer arrested in the saloon was satisfactory, and he broke his leg when pushed by an officer at the station house, the injury was not an accidental injury arising out of and in the course of his employment, within the act so as to justify an award against the employer and insurance carrier.

The court said in part: "The respondents urge that the contract of insurance covers this injury, and that the service he was rendering at the time he received it was incidental to the business of his employer. Our attention is called to three authorities which respondents urge support their contention: Clark *v.* Roger I. Sherman, Inc.,